

**§ 212.7 Written contracts with charterers.**

Every agreement to perform a charter trip shall be in writing and signed by an authorized representative of the foreign air carrier and the charterer prior to operation of a charter flight: *Provided*, That where execution of a contract prior to commencement of flight is impracticable because the charter has been arranged on short notice, compliance with the provision hereof shall be effected within 7 days after commencement of the flight. The written agreement shall include, without limitation:

- (a) Date and place of execution of the contract or agreement;
- (b) Signature, printed or typed name of each signatory, and official position of each;
- (c) Dates of flights and points involved;
- (d) Type of aircraft and its capacity stated as the number of passenger seats or pounds of cargo capacity available;
- (e) Rates, fares, and charges applicable to the charter trip, including the charter price, live and ferry mileage charges, and layover and other non-flight charges;
- (f) The name and address of either the surety whose bond secures advance charter payments received by the carrier, or of the carrier's depository bank to which checks or money orders for the advance charter payments are to be made payable as escrow holder pending completion of the charter trip; and
- (g) A statement that unless the charterer files a claim with the carrier, or, if the carrier is unavailable, with the surety, within 60 days after the cancellation of a charter trip with respect to which the charterer's advance payments are secured by the bond, the surety shall be released from all liability under the bond to such charterer for such charter trip (see § 212.12(c)).

(Approved by the Office of Management and Budget under control number 3024-0036)

[ER-1220, 46 FR 28371, May 26, 1981, as amended by ER-1341, 48 FR 31014, July 6, 1983]

**§ 212.8 Terms of service.**

- (a) The carrier shall require full payment of the total charter price, including payment for the return portion of a

round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation: *Provided, however*, that in the case of a passenger charter for less than the entire capacity of an aircraft, the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, from the passenger charterers not less than 10 days prior to the commencement of any portion of the transportation, and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this section, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

- (b) Where four or more round trip flights per calendar year are conducted on behalf of a chartering organization by a carrier or carriers, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported one way in each direction, there shall be no intermingling of passengers, and each group shall move as a unit in both directions, except as provided in § 212.9. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in order to avoid this 5 percent limitation.

[ER-1220, 46 FR 28371, May 26, 1981, as amended by ER-1275, 47 FR 137, Jan. 5, 1982]

**§ 212.9 Substitute transportation in emergencies.**

- (a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his or her own or on a ferry flight (as defined in § 241.03 of this chapter) under the following circumstances:

- (1) The transportation is for return passage only;
- (2) The passenger is required to return at a time different from that of his or her own charter flight due to emergency circumstances beyond the passenger's control; and